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| APPLICATION NO.                                       | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------|------------------|
| 09/424,807  | 03/22/2000  | BERND ETTÉ           | 67190/978560            | 8622             |
| 26646   | 7590        | 03/11/2004           | EXAMINER                |                  |
| KENYON & KENYON<br>ONE BROADWAY<br>NEW YORK, NY 10004 |             |                      | JARRETT, RYAN A         |                  |
|   |             |                      | ART UNIT                | PAPER NUMBER     |
|   |             |                      | 2125                    |                  |
|   |             |                      | DATE MAILED: 03/11/2004 |                  |

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/424,807

Applicant(s)

ETTE ET AL.

Examiner

Ryan A. Jarrett

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 March 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2 and 6</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lestician U.S. Patent No. 5,880,677 in view of Krüger et al., "Maschinediagnose über das Internet," ZWF 91 (1996) 12, pp. 604-606 (supplied by applicant). Lestician discloses an arrangement for remote-controlled monitoring and manipulation of an overcurrent trip device, comprising: an interface coupled to the overcurrent trip device outputting status messages associated with the overcurrent trip device, the interface being coupled to a transmission line, the transmission line forming a part of a network which connects data processing devices, the interface being programmed to exchange data in an internet format based on an internet protocol; and a memory area of the overcurrent trip device storing at least one page in the internet format for retrieval; wherein the memory area is a read/write memory; a key for enabling and disabling a modification of tripping parameters; wherein the at least one page is accessed by a remote device via the interface; wherein the at least one page is modified by a remote device via the interface (e.g. Figs. 2-4, col. 4 lines 1-35, col. 5 line 43 – col. 6 line 61, col. 9 lines 1-49).

Lestician does not specifically disclose that the internet format is HTML and that the internet protocol is TCP/IP. However, HTML and TCP/IP are and were well-known formats and protocols used at the time of the applicant's invention. Furthermore, Krüger et al. discloses a system for remotely monitoring and controlling various machine devices over an internet network, including the use of TCP/IP protocols and HTML formats. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lestician with Krüger et al. since HTML and TCP/IP were well known at the time of the applicant's invention and since Krüger et al. teaches that machine service/diagnostic/control data can be received over a TCP/IP internet network and displayed in HTML format via an internet browser, so that a user may remotely monitor and control the machine device.

Lestician does not specifically disclose "a switch" for enabling and disabling a modification of tripping parameters. However, Lestician does disclose that the control software is programmed to respond only to keyed input software to prevent unauthorized use or tampering (col. 6 lines 15-17). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lestician to include "a switch" since it has the same function as the software input key taught by Lestician, which is to prevent unauthorized access to the system.

#### ***Additional Rejection***

3. Claims 5-9 are *additionally* rejected under 35 U.S.C. 103(a) as being unpatentable over Kertesz et al. U.S. Patent No. 5,764,155 in view of Krüger et al., "Maschinediagnose über das Internet," ZWF 91 (1996) 12, pp. 604-606 (supplied by

applicant). Kertesz et al. discloses an arrangement for remote-controlled monitoring and manipulation of an overcurrent trip device, comprising: an interface coupled to the overcurrent trip device outputting status messages associated with the overcurrent trip device, the interface being coupled to a transmission line, the transmission line forming a part of a network which connects data processing devices, the interface being programmed to exchange data in an internet format based on TCP/IP protocol; and a memory area of the overcurrent trip device storing at least one page in the internet format for retrieval; wherein the memory area is a read/write memory; an authentication and security means; wherein the at least one page is accessed by a remote device via the interface; wherein the at least one page is modified by a remote device via the interface (e.g. Figs. 1-4, col. 2 line 29 – col. 3 line 14, col. 6 lines 3-18, col. 7 lines 38-46, col. 10 line 47 – col. 13 line 19, col. 17 lines 57-67, col. 18 lines 60-67)

Kertesz et al. does not specifically disclose that the internet format is HTML. However, HTML is and was a well-known format used at the time of the applicant's invention. Furthermore, Krüger et al. discloses a system for remotely monitoring and controlling various machine devices over an internet network, including the use of TCP/IP protocols and HTML formats. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kertesz et al. with Krüger et al. since HTML was well known at the time of the applicant's invention and since Krüger et al. teaches that machine service/diagnostic/control data can be received over an TCP/IP internet network and displayed in HTML format via an internet browser, so that a user may remotely monitor and control the machine device.

Kertesz et al. does not specifically disclose "a switch" for enabling and disabling a modification of tripping parameters. However, Kertesz et al. does disclose a security and authentication means (col. 6 lines 3-18). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kertesz et al. to include "a switch" since it has the same function as the security/authentication means taught by Kertesz et al., which is to prevent unauthorized access to the system.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ehlers et al. U.S. Patent No. 5,572,438

Roos U.S. Patent No. 5,699,276

Oravetz et al. U.S. Patent No. 5,872,722

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan A. Jarrett whose telephone number is (703) 308-4739. The examiner can normally be reached on 10:00-6:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (703) 308-0538. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ryan A. Jarrett  
Examiner  
Art Unit 2125

3/7/04

A handwritten signature in black ink, appearing to read 'L. Picard', written diagonally across the page.

LEO PICARD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100